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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,550	07/10/2006	Kenneth Alan Soellner	GRWBP0325WOUSA	4380

7590 03/16/2009
Don W Bulson
Renner Otto Boisselle & Sklar
1621 Euclid Avenue
19th Floor
Cleveland, OH 44115

EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3657

MAIL DATE	DELIVERY MODE
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03/16/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/568,550	Applicant(s) SOELLNER, KENNETH ALAN	
	Examiner Melody M. Burch	Art Unit 3657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 3887047 to Harnish et al.

Re: claims 1-8 and 10-18. Harnish et al. show in figure 2 an adjuster assembly for adjusting the release clearance between selectively engageable friction parts to compensate for wear in such parts, comprising a continuous tube 58 and an expansion member 72 together having a combined length controlling the release clearance of the

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selectively engageable friction parts, the expansion member having an expansion device frictionally engaging the interior of the continuous tube to effect progressive circumferential expansion of the continuous tube when the expansion device is axially drawn through the continuous tube to compensate for wear of the friction parts during actuation and release of said selectively engageable parts, and the continuous tube having an end portion in the area immediately to the left of the end of the lead line of number 78 processed differently from the balance of the continuous tube for extending the usable portion of the continuous tube.

Re: claim 9. Harnish et al. show in figure 1 brake system comprising a plurality of friction discs 30,34 located between a pressure plate 42 and a reaction plate 27, an actuating mechanism 54 operative for moving the pressure plate toward the friction discs and the reaction plate, and an adjuster assembly as set forth in claim 1 for compensating for wear of the friction discs as shown in figure 2.

Response to Arguments

4. Applicant's arguments filed 12/1/08 have been fully considered but they are not persuasive.

Applicant argues that Harnish fails to disclose or suggest the limitation wherein the continuous tube has an end portion processed differently from the balance of the continuous tube for extending the usable portion of the continuous tube. Applicant states that there is no extension of the useful life of the tube 58 because element 78 functions as a stop. Examiner disagrees and notes that the use of element 78 as a stop to begin the second phase of wear adjustments via element 60 is, in and of itself, an

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extension of the usable portion of the continuous tube. It is because of the differently processed end portion of the continuous tube that further adjustments are accomplished by element 78 cooperating with element 72, 82, and 60 to result in the further compensation of wear of the friction parts. The fact that the adjustment takes place in phases is an argument that is more specific than the claim language.

Applicant also argues that Harnish fails to show or suggest that the second end tapers to and terminates at a diameter which is smaller than the major tube diameter. Examiner disagrees and notes that the claim recites that the mechanism has a first end and a second end and later recites that the expander member moves from the first end to the second end. Since the expander member in Harnish stops at element 78 after traveling from the first end, the location of the stop 78 represents the second end. As shown in the figures of Harnish, the stop element or second end 78 tapers to and terminates at a diameter which is smaller than the major tube diameter to be able to carry out its function as a stop.

With regards to the drawing objections, Examiner has maintained the objections because no replacement sheets were attached with the response.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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March 10, 2009

/Melody M. Burch/

Primary Examiner, Art Unit 3657